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U.S. DEPT. OF TRANSPORTATION
DOCKET

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SERVED: FEBRUARY 1, 2006

U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, DC

IN THE MATTER OF

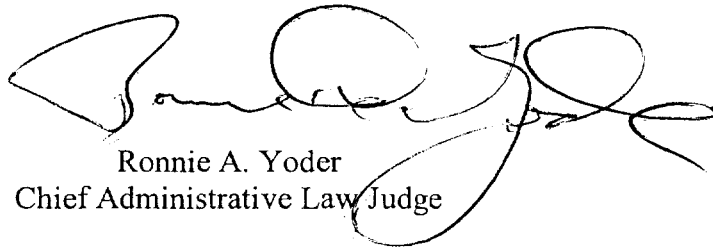
JOAQUIN RODRIGUEZ

FAA DOCKET NO. CP05SO0049
(Civil Penalty Action)

DMS NO. FAA-2005-22885-2

NOTICE OF ASSIGNMENT OF PROCEEDING

This proceeding (heretofore designated as FAA Case No. 2005SO290003) has been assigned to the undersigned. All future pleadings and other communications regarding this proceeding shall be served on the Judge, the FAA Hearing Docket, and the other persons on the attached Service List.



Ronnie A. Yoder
Chief Administrative Law Judge

Attachment - Service List

SERVICE LIST

ORIGINAL & ONE COPY

Hearing Docket
Federal Aviation Administration
800 Independence Avenue, S.W.
Washington, DC 20591
Attn: Hearing Docket Clerk, AGC-430
Wilbur Wright Building – Room 2014¹

ONE COPY

Joaquin Rodriguez
525 Boxwood Drive
N. Shirley, NY 11967

Gerald A. Ellis, Attorney
Office of the Regional Counsel
Southern Region, ASO-7
Federal Aviation Administration
P.O. Box 20636
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The Honorable Ronnie A. Yoder
Chief Administrative Law Judge
Office of Hearings, M-20
Room 5411
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

TEL: (202) 366-2142
FAX: (202) 366-7536

¹ Service was by U.S. Mail. For service in person or by expedited courier, use the following address: Hearing Docket, Federal Aviation Administration, 600 Independence Avenue, S.W., Wilbur Wright Building – Room 2014, Washington, DC 20591, Attn: Hearing Docket Clerk, AGC-430.

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IN THE MATTER OF

JOAQUIN RODRIGUEZ

FAA DOCKET NO. CP05SO0049
(Civil Penalty Action)

DMS NO. FAA-2005-22885

ORDER OF CHIEF ADMINISTRATIVE LAW JUDGE

This proceeding arises from a complaint dated October 27, 2005, alleging violation of the Federal Aviation Act/Regulations, and the Respondent's request for hearing dated October 14, 2005. The undersigned administrative law judge was assigned to the proceeding by Notice served February 1, 2006.

The Rules of Practice for this proceeding are set forth in Part 13, Subpart G, of the Federal Aviation Regulations (14 C.F.R. §§ 13.201-13.235). Those rules provide, inter alia, that the Respondent must file a written answer or motion within 30 days after service of the complaint (§ 13.209(a)); that a general denial is deemed a failure to file an answer (§ 13.209(e)); that failure to file an answer without good cause is deemed an admission of each allegation in the complaint (§ 13.209(f)), and that a party seeking an extension of time must file a written motion at least

seven days before the document is due, absent agreement of the parties or good cause shown (§ 13.213(a) and (b)).

To expedite the hearing in this matter, the Regional Counsel and the Respondent, on or before March 3, 2006, shall file (1) any amendment of the complaint or answer;¹ (2) an agreed or separate proposed procedural schedules, including proposed dates (i.e., specific dates, not merely numbers or days before the hearing) for (a) filing stipulations, a list of witnesses, a summary of their proposed testimony, and for (b) exchanging exhibits and discovery, if any; (3) a statement concerning the status of settlement efforts; and (4) a proposed hearing site and, absent agreement of the parties, a justification of the proposed site. See 14 C.F.R. § 13.237.

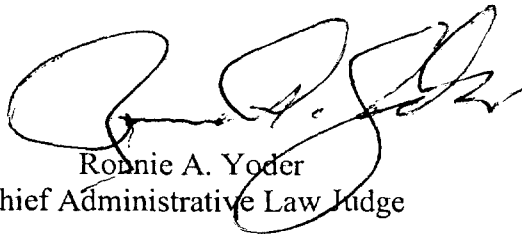
Under FAA Order 2150.3A and the Rules governing these proceedings, the agency attorney and the Respondent should continue to consider the possibility of settlement and compromise of this matter.² In connection with such discussions, the FAA shall furnish Respondent a copy of at least the following pages of FAA Order 2150.3A (Change 30, dated November 15, 2001)--cover page and pages i, 15-24, 30, 138-1 and Appendix 4 pages 1-4 and any other relevant pages of the Sanction Guidance Table (including pages 5-8 for air carrier cases and pages 20-1 to 21-3 for weapons violations).

¹ Further amendments are not anticipated absent good cause shown. Though 14 C.F.R. § 13.214(b)(1) permits amendments at any time more than 15 days before a hearing, utilization of that provision would prevent orderly preparation for a hearing and could prevent any hearing at all, because notice of a hearing must be given 60 days in advance. 14 C.F.R. § 13.221(a). An amendment that might be filed 15 days prior to the hearing would entitle the other party up to 20 days in which to reply (14 C.F.R. § 13.214(c)), and could generate a new round of schedules (14 C.F.R. § 13.217), motions (14 C.F.R. § 13.218), and discovery (14 C.F.R. § 13.220), necessitating a postponement of the hearing, a new 60-day notice, et cetera ad infinitum.

² See Linda Joyce Goodman, FAA Docket No. CP89WP0061, Order served May 30, 1989. See also Exec. Order No. 12,988, 61 Fed. Reg. 4729 (Feb. 5, 1996), which refers to facilitating the just and efficient resolution of civil claims involving the United States Government and which directs Federal agencies and their litigation counsel to, "as soon as practicable after ascertaining the nature of a dispute in litigation, and throughout the litigation, . . . evaluate settlement possibilities and make reasonable efforts to settle the litigation."

Compromise may be effected with or without a finding of violation (§ 13.16(l)). Each party's filing shall include a telephone number where the party can be reached by the Judge for prehearing telephone conferences.

SO ORDERED.



Ronnie A. Yoder
Chief Administrative Law Judge

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